

COURT NEWS

SPECIAL EDITION

D E C E M B E R
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2003 Legislative Summary

During the first year of the 2003–2004 Legislative Session, the Legislature and Governor enacted over 130 bills that affect the courts or are of general interest to the legal community. Brief descriptions of these measures follow, arranged according to subject matter. Designators in the index specify whether the measure is of primary interest to judges, court administrators, and/or practitioners in trial courts (T), appellate courts (A), or both.

The effective date of legislation is January 1, 2004, unless otherwise noted. Urgency measures normally take effect upon enactment, and those dates are included where applicable.

The bill descriptions are intended to serve only as a guide to identifying bills of interest; they are not a complete statement of statutory changes. Code section references are to the sections most directly affected by the bill; not all sections are cited.

Until the annual pocket parts are issued, bill texts can be examined in their chaptered form in *West's California Legislative Service* or *Deering's Legislative Service*, where they are published by chapter number. In addition, chaptered bills and legislative committee analyses can be accessed on the Internet at www.leginfo.ca.gov/bilinfo.html. Individual chapters may be ordered directly from the Legislative Bill Room, State Capitol, Sacramento, California 95814, 916-445-2323.

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CIVIL LAW AND PROCEDURE

CONSUMER CONTRACTS:

TELEMARKETING

AB 88, CORBETT AND STEINBERG, CH. 77
CIV 1670.6

Provides that any contract with a consumer that is made in connection with a telephone solicitation for the purchase of certain goods or services is unlawful if the telemarketer fails to comply with the provisions of the federal Telemarketing Sales Rule, prohibiting a seller or telemarketer from engaging in deceptive or abusive telemarketing acts or practices.

COMMON INTEREST DEVELOPMENTS: RECORDS

AB 104, LOWENTHAL, CH. 375
CIV 1365.2

Requires a common interest development association to make its accounting books, records, and minutes of proceedings

available for inspection and copying by a member at any reasonable time, either in person or by mail. Provides that the association may withhold or redact such documents when their release may lead to crimes of identity theft or fraud. Prohibits the association from using such records for commercial use. Permits a member to bring an action to enforce this right and requires a court to award the member reasonable costs and expenses if it finds that the association unreasonably withheld access to the books. Permits assessment of a civil penalty for each violation.

EXEMPT PROPERTY: EVALUATION

AB 182, HARMAN, CH. 379
CCP VARIOUS SECTIONS;
W&I 17409

Among other things, requires the Judicial Council, on or before April 1, 2004, and at each three-year interval ending on April 1 thereafter, to adjust the amount of specified exemptions under the bankruptcy laws

based on the change in the annual California Consumer Price Index for All Urban Consumers, to prepare conforming forms for those adjustments, and to publish the current exemptions.

DISCRIMINATION: GENDER

AB 196, LENO, CH. 164
GOV 12926, 12949

The Fair Employment and Housing Act extends prohibition against discrimination to include discrimination based on perceptions of an individual's gender, regardless of whether the perceived gender characteristics are different from those traditionally associated with the individual's sex at birth. Permits employers to require employees to adhere to reasonable workplace appearance and standards consistent with state or federal law, provided that employees are allowed to appear or dress consistent with their gender identity.

ACKNOWLEDGMENTS

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CONTRACTS: FOREIGN LANGUAGES

*AB 309, CHU, CH. 330
CIV 1632*

Requires a business that primarily negotiates certain consumer contracts in Chinese, Tagalog, Vietnamese, or Korean to provide the consumer with a written translation of the contract in that language prior to the execution of the contract.

CIVIL ACTIONS: SERVICE OF SUMMONS

*AB 418, PACHECO, CH. 128
CCP 415.20, 415.95*

Among other things, allows a summons and complaint and a civil action to be served by leaving a copy of these documents at the usual mailing address of the person to be served, followed thereafter by a mailed copy. Allows a business organization to be served by delivering a copy of the summons and the complaint to the person who is apparently in charge of the office of that organization, followed by mailing to that address. Provides that this type of service is complete on the 10th day after the mailing.

LIEN CLAIMS: RELEASE: ATTORNEY FEES

*AB 447, VARGAS, CH. 279
CIV 3154*

Increases from \$1,000 to \$2,000 the amount of attorney fees that may be recovered by a prevailing party in an action by a property owner seeking a release of the property from a mechanic's lien.

TENANCY: PENALTIES FOR CODE VIOLATIONS

*AB 647, NUNEZ, CH. 109
CIV 1942.4; CCP 1174.21*

Increases the amount that a landlord is liable to a tenant from \$1,000 to \$5,000 for renting units that are substandard or in violation of habitability requirements and failure to make repairs. Prohibits landlords from assessing rental increases or issuing three-day eviction notices during the period of violation. Makes a landlord who files an unlawful detainer action during the period of violation liable for the tenant's reasonable attorney fees.

MOBILE HOMES: TERMINATION

*AB 682, CORBETT, CH. 561
CIV 798.55, 798.73*

Gives evicted mobile-home owners the additional option of selling their mobile homes rather than moving the homes within the 60-day statutory period.

GARNISHMENT: EXECUTION AND ATTACHMENT LIENS

*AB 690, PACHECO, CH. 110
CCP 488.455, 700.140*

Modifies procedures for attachment of money in deposit accounts and clarifies procedures for service of process in garnishment proceedings on financial institutions.

MOBILE HOME RESIDENCY LAW: DAMAGES FOR VIOLATIONS

*AB 693, CORBETT, CH. 98
CIV 798.86*

Provides that a mobile-home park owner who willfully violates the Mobile Home Residency Law may be liable for a penalty of up to \$2,000, or punitive damages, if the conduct is malicious, fraudulent, or oppressive, but not both.

RACIAL DISCRIMINATION: DEFINITION

*AB 703, DYMALLY, CH. 211
GOV 8315*

Defines race discrimination for the purposes of the California Constitution and interprets that provision of the constitution with respect to private causes of action.

MOBILE HOMES: EVICTIONS

*AB 767, NAKANO, CH. 388
CIV 798.56*

Permits mobile-home park management to evict a tenant who is convicted of certain crimes committed within the park, including child molestation, arson, battery resulting in serious bodily injury, and assault with a firearm.

MOBILE HOMES: TERMINATION OF TENANCIES

*AB 805, DIAZ, CH. 85
CIV 798.56*

Requires mobile-home park owners to provide park residents with a notice that failure to make timely payment of rent or other charges three times or more in a year can result in termination of tenancy without a grace period or further notice. Requires this notice to be placed in a late payment notice already required by existing law.

LANDLORD AND TENANT: MENACING AND RETALIATORY ACTS

*AB 1059, LIEBER, CH. 542
CIV 1940.2, 1942.5*

Provides that a tenant is entitled to a civil penalty of \$2,000 for each act when a landlord uses threats, extortion, or force to influence the tenant to vacate a building. Increases the amount of punitive damages allowed from \$1,000 to \$2,000.

NONRESIDENTIAL TENANCIES: SECURITY DEPOSITS

*AB 1361, MCCARTHY, CH. 89
CIV 1950.7*

Changes the period of time that a landlord, in a nonresidential lease, has to return the remainder of a security deposit from two weeks to 30 days in all cases.

CONTRACTORS: ARBITRATION

*AB 1382, CORREA, CH. 363
B&P VARIOUS SECTIONS*

Makes various changes to the Contractors' State License Law relative to the issuance of contractor licenses. Among other things, deletes the authority of an arbitrator to order specific performance of a contract but specifies that an arbitrator is not prevented from awarding a complainant all direct costs and expenses for completion or repair of the project.

TENANCY: INSPECTIONS

*AB 1384, MADDOX, CH. 576
CIV 1950.5*

Provides that a landlord is not required to notify a tenant of the tenant's right to an initial inspection of the premises to identify deficiencies that may result in a charge against the tenant's security deposit when the tenancy is terminated pursuant to the landlord's service of specified three-day notices that are not cured by the tenant or that cannot be cured.

CONTRACTORS

*AB 1386, SHIRLEY HORTON, CH. 289
B&P 7031*

Modifies the provisions governing when an individual may recover compensation paid to an unlicensed contractor. Provides that there is substantial compliance with licensing requirements if the contractor (1) had been duly licensed prior to the performance of the contract, (2) acted reasonably and in good faith to maintain proper licensure, (3) did not know or reasonably should not have known that he or she was not licensed when performance of the act or contract commenced, and (4) acted promptly and in good faith to reinstate the license upon learning that it is invalid. Makes legislative findings that the changes made by this act are declaratory of existing law.

INVESTIGATIVE CONSUMER REPORTING AGENCIES

*AB 1399, LONGVILLE, CH. 146
CIV 1786.20, 1786.50*

Specifies that an investigative consumer reporting agency or user of information that fails to comply with the statutes governing investigative consumer reports is liable to the consumer who is the subject of the report. Specifies, however, that an investigative consumer reporting agency or user of information that fails to comply with any requirement under

this title with respect to an investigative consumer report shall not be liable to a consumer who is the subject of the report if the failure to comply results in a more favorable investigative consumer report than if there had not been a failure to comply.

COMMERCIAL FILMING PERMITS

*AB 1478, FROMMER, CH. 220
GOV 14999.37*

Among other things, prohibits public officials from requiring a charitable donation in exchange for granting, or support the granting of, a film permit. Establishes a civil penalty between \$1,000 and \$5,000 for any official who requires such consideration and authorizes a local district attorney, a city attorney, or the state Attorney General to sue to collect the penalties.

APPEALS: NUISANCE

*AB 1639, FIREBAUGH, CH. 31
CCP 917.8*

Unless the trial or appellate court orders otherwise, provides that a temporary restraining order or preliminary injunction will be enforceable during the pendency of an appeal if it has been issued pursuant to government efforts to abate a narcotics or vice nuisance under the Narcotics Abatement Law or the Red Light Abatement Law.

COURTS: CIVIL LAW OMNIBUS

*AB 1712, COMMITTEE ON JUDICIARY, CH. 449
B&P 17511.12; CIV 798.61, 1780; CCP VARIOUS SECTIONS; VARIOUS OTHER CODES AND SECTIONS*

Conforms various statutory provisions of law to the abolition of municipal courts and their unification within the superior courts. Makes other technical and clarifying changes with respect to judicial arbitration proceedings, jury lists, service of process, small claims court, and witness fees.

TENANCY: SECURITY DEPOSITS

*SB 90, TORLAKSON, CH. 335
CIV 1950.5*

Establishes specific methods and time frames for a landlord to satisfy his or her obligation to return any unused security deposit to the former tenant and to provide a specific accounting of any amount that is used.

MECHANIC'S LIENS

*SB 113, ACKERMAN, CH. 22
CCP 1281.5*

Revises statute governing stays of mechanic's lien enforcement actions pending arbitration by providing that if claimant does not file a motion to stay the action pending arbitration within 30 days of service that claimant waives rights to arbitration.

PRIVATE WORKS OF IMPROVEMENT: MECHANIC’S LIENS

*SB 134, FIGUEROA, CH. 54
CIV 3097, 3259.5*

Requires the owner of a private work of improvement to provide a notice to the original contractor, as well as any subcontractors or materials suppliers who have filed a preliminary mechanic’s lien notice, within 10 days of recording a notice of completion or cessation. Provides that the sole liability of the owner for failure to notify the required parties is an extension of the lien recordation deadline to 90 days from the recordation of the notice of completion. Exempts from the bill’s notice requirements individuals who occupy an improved property of four or fewer units as a personal residence.

CONTRACTS: SPANISH TRANSLATION

*SB 146, ESCUTIA, CH. 589
CIV 1632*

Requires a person in a trade or business who negotiates certain contracts or agreements primarily in the Spanish language to provide the consumer a translation of every term and condition in that contract or agreement, prior to execution.

PRIVACY: UNSOLICITED COMMERCIAL E-MAIL ADVERTISING

*SB 186, MURRAY, CH. 487
B&P 17529 ET SEQ., 17538.4, 17538.45*

Clarifies current law and creates new avenues to sue advertisers for unsolicited e-mail (spam). Authorizes a recipient, an e-mail service provider, or the Attorney General to bring an action to recover actual damages and/or liquidated damages of \$1,000 per unsolicited commercial e-mail, up to \$1 million per incident. Requires the court to award a prevailing plaintiff reasonable attorney fees and costs.

TOXIC INJURIES: LIMITATION OF ACTIONS

*SB 331, ROMERO, CH. 873
CCP 340.8*

Codifies the doctrine of delayed discovery as it applies to the statute of limitations for filing a lawsuit for illness, injury, or death caused by exposure to a hazardous material or toxic substance other than asbestos. States the intent of the Legislature to codify and disapprove the rulings in specific court cases.

UNINSURED MOTORISTS: STATUTE OF LIMITATIONS

*SB 333, ROMERO, CH. 56
INS 11580.2, 11580.23*

Increases from one year to two years the permitted time for an insured motorist with uninsured motorist coverage to file a cause of action against an uninsured motorist or to commence arbitration proceedings under his or her uninsured motorist policy.

TENANCY

*SB 345, KUEHL, CH. 787
CIV 1954; CCP 1161.2, 1166;
H&S 34328.1*

Among other things, prohibits access to certain unlawful detainer court records if a defendant prevails in an unlawful detainer action within 60 days after the complaint is filed. Provides that the court clerk may not allow access at any time to the court file, index, register of action, or other court records. Eliminates the ability of a court to exempt itself from these provisions and eliminates the duty placed on the Judicial Council with respect to requests for court records.

HOME EQUITY SALES CONTRACTS

*SB 455, TORLAKSON, CH. 74
CIV 1695.7, 1695.8*

Authorizes a court to award a civil penalty of up to \$2,500 in actions where a homeowner prevails against an equity purchaser for certain violations such as transferring property prior to the cooling-off period, not following contract terms, fraud, or misleading or unconscionably taking advantage of a property owner. Increases the maximum criminal fine from \$10,000 to \$25,000 for such violations.

CIVIL ACTIONS

*SB 515, KUEHL, CH. 338
CCP 425.17*

Makes the Strategic Lawsuit Against Public Participation (SLAPP) motion inapplicable to specified public interest and class action lawsuits, as well as certain actions brought against a business that arise from commercial statements or conduct of that business. Provides that if the trial court denies a SLAPP motion because of the new exemptions, the provisions of the anti-SLAPP law regarding a stay of discovery and the right to an immediate appeal do not apply.

CORPORATE LIABILITY

SB 523, ESCUTIA, CH. 477

CORP 2207, 17655
Among other things, makes specified corporations and limited liability companies liable for a civil penalty of up to \$1 million if the company has actual knowledge of certain false statements and similar wrongs and fails to notify the Attorney General and its shareholders and investors in writing, unless they have already been notified. Provides that a civil action to assess the civil penalties under this bill may be brought only by the Attorney General, a district attorney, or a city attorney.

HOUSING: NOTICE TO TENANTS

*SB 538, TORLAKSON, CH. 255
GOV 65863.10, 65863.13*

Requires notice to prospective tenants in the event of changes in rent or subsidies of certain affordable housing projects.

IDENTITY THEFT

*SB 602, FIGUEROA, CH. 533
CIV VARIOUS SECTIONS; PEN
530.6, 530.8; PUC 2891*

Seeks to deter identity theft by (1) authorizing a civil penalty of up to \$2,500 against a credit reporting agency that recklessly or intentionally fails to place a requested security alert on a person’s credit file and requiring notice of alert expirations; (2) capping the fee for a credit freeze at \$10 (where the consumer is not the victim of identity theft); (3) restricting the use by businesses of encoded data on driver licenses and creating a new misdemeanor for violations; (4) requiring businesses that provide credit, installment, or telephone accounts to send change of address request notifications; (5) creating a civil right of action for damages against businesses that fail to provide consumers with certain information when an unauthorized account has been opened and imposing a penalty for such conduct; (6) creating a new misdemeanor for unauthorized retention of information “swiped” from a person’s driver’s license; (7) creating a requirement for submission of records to the court in specified proceedings or investigations of possible identity theft; and (8) specifying that the law enforcement agency with jurisdiction over the victim’s place of residence shall be primarily responsible for victim-initiated investigation of identity theft.

HOMESTEAD EXEMPTIONS

*SB 804, MACHADO, CH. 64
CCP 704.730*

Increases the homestead exemption from \$125,000 to \$150,000 for citizens 65 years of age or older, disabled, or 55 years of age or older with a gross annual income that does not exceed a certain amount.

DEBT COLLECTORS

*SB 1022, PERATA, CH. 259
CIV 1812.700 ET SEQ.*

Beginning July 1, 2004, requires third-party debt collectors to provide notice to debtors, with the first written notice sent to a California address of the debtor in connection with the collection of a debt, that sets forth the debtor’s rights as specified under the federal Fair Debt Collection Practices Act. Provides that a debt collector who fails to provide that notice would be liable for actual damages and a civil penalty.

COURT FACILITIES AND SECURITY

COURT FACILITIES: CONSTRUCTION AND OWNERSHIP

*SB 256, ESCUTIA, CH. 592
GOV VARIOUS SECTIONS;
VEH 42007*

Makes miscellaneous changes related to the Trial Court Facilities Act of 2002 and other technical changes. Clarifies the responsibility of the Judicial Council with respect to construction and acquisition of court facilities. Requires the Administrative Director of the Courts to approve expenditures from local courthouse construction funds. Revises the method for calculating the inflation figures in the county facilities payment. Clarifies the applicability of the court facility surcharge on filing fees. Repeals an obsolete provision related to Fresno County employee classifications. Clarifies the length of time a trial court can employ temporary court reporters in Los Angeles County. Establishes a process for the transfer of employment of county employees providing janitorial or maintenance services from the county to the court.

COURT OPERATIONS AND STATE BUDGET

STATE CONTRACTS: ACQUISITION OF GOODS OR SERVICES

*AB 17, KEHOE, CH. 752
PCC 10295.3*

Prohibits a state agency from entering into a contract for the acquisition of goods or services in the amount of \$100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between the domestic partners and spouses of those employees, except under specified circumstances. Exempts certain contracts from the bill. Requires that every state contract to acquire goods and services contain a statement by the contractor certifying that the contractor is in compliance with these provisions. Provides that the contractor is subject to penalties if the contractor falsely certifies its compliance.

**2003–2004 BUDGET
TRAILER BILL: CLEANUP
AB 296, OROPEZA, CH. 757
VARIOUS CODES**

Effective January 1, 2004. Clarifies that for all cases filed on or after August 18, 2003, the \$500 fee for cases designated complex shall be charged in addition to (1) the first appearance fee required for the filing of a first paper by a plaintiff or plaintiffs in a civil action and (2) the fee for the filing of a first paper on behalf of each defendant, intervenor, respondent, or adverse party. Establishes a cap on the complex litigation fee of \$10,000 collected from all plaintiffs and a separate \$10,000 cap on the complex fees collected from all defendants. Clarifies that graduated probate fee schedules apply to certain trusts that require ongoing court supervision as well as to all decedent's estates and that, upon a subsequent petition, a successful personal representative shall reimburse the original petitioner as specified. Clarifies that the \$25 court reporter fee shall be charged in addition to (1) the first appearance fee required for the filing of a first paper by a plaintiff or plaintiffs in a civil action and (2) the fee for the filing of a first paper on behalf of each defendant, intervenor, respondent, or adverse party. Establishes a \$20 security surcharge on all unlimited civil filings where the amount demanded is in excess of \$10,000 and a \$10 security surcharge on all limited civil filings where the amount demanded is \$10,000 or less.

**PRIVACY: SOCIAL
SECURITY NUMBERS**

**AB 763, LIU, CH. 532
CIV 1798.85**

Among other things, prohibits a social security number that is otherwise permitted to be mailed from being printed, in whole or in part, in plain view on postcards, mailers, and envelopes. Specifies that the social security number must not be visible without the envelope being opened. Specifies that these provisions do not apply to court records that are required to be made available to the public.

**COUNTY LAW LIBRARIES
AB 1095, CORBETT, CH. 394
GOV 70394**

Requires the Judicial Council to establish a task force on county law libraries, charged with identifying the needs related to library operations and facilities and identifying and making recommendations for funding library operations, facility improvements, and expansion. Provides that the task force shall consist of three representatives from the judicial branch of government selected by the Administrative Director of the Courts, three representatives of the counties selected by the California State Association of Counties, and three county

law library administrators selected by the Council of California County Law Librarians. Specifies that the Administrative Office of the Courts (AOC) shall provide staff support for the task force. Requires the task force members to be appointed on or before March 1, 2004, and the task force to submit its report and recommendations to the Judicial Council and the Legislature on or before January 1, 2005.

COURT EMERGENCIES

**AB 1641, KEENE, CH. 293
GOV 68115**

**URGENCY, EFFECTIVE
SEPTEMBER 4, 2003**

Gives the Chief Justice authority to make necessary orders during a state of emergency, such as extending statutory time frames for filing documents and extending deadlines for arraignments, juvenile detention hearings, and juvenile jurisdiction hearings.

COURT OPERATIONS

**AB 1710, COMMITTEE ON
JUDICIARY, CH. 365
FAM 7121; GOV 68087, 77209;
PEN 1465.7, 11105.04; W&I
213.5, 213.6, 355**

Makes several noncontroversial changes to family and juvenile law. The bill eliminates obsolete references, corrects statutory cross-references, and makes the requirements for service of protective orders consistent under the Welfare and Institutions Code and the Family Code. Allows Court Appointed Special Advocate (CASA) programs to obtain criminal background check information on applicants using fingerprints. Modifies who is to be notified if a minor who is a ward of the court applies for emancipation. Clarifies exemptions from certain fee surcharges.

**BUDGET TRAILER BILL:
CHILD SUPPORT
COLLECTION
ENHANCEMENTS**

**AB 1752, COMMITTEE ON
BUDGET, CH. 225
VARIOUS CODES
URGENCY, EFFECTIVE
AUGUST 11, 2003**

Among other things, enacts changes to increase collection of child support arrears owed to the state and increase accuracy in establishment of child support orders by (1) establishing full-time minimum wage income as the presumed income when the local child support agency (LCSA) has no information on income, (2) permitting retroactive adjustment of default orders within a year of the first collection, (3) requiring LCSAs to verify income information and make modifications where necessary within three months of first collection on default orders, (4) making the low-income adjustment presumptive, (5) simplifying the process for liquidating securities held by delinquent obligors, and (6) requiring the Department of Child Support Services

to develop an offers in compromise program for child support arrears to be in effect until January 1, 2007.

**BUDGET TRAILER BILL:
COURT FEES**

**AB 1759, COMMITTEE ON
BUDGET, CH. 159
VARIOUS CODES
URGENCY, EFFECTIVE
AUGUST 2, 2003**

Increases the trial motion fee to \$33. Transfers specified undesignated fee revenues. Establishes a \$20 assessment for court security for all civil filings (except small claims) and criminal convictions. Increases the filing fee on limited jurisdiction cases over \$10,000 to \$185. Increases the small claims fee to \$60 for filers of more than 12 claims per year. Increases the summary judgment motion fee to \$150. Establishes a continuance fee of \$100 when a continuance of trial is granted in all civil and family law trials. Provides for the enhanced collection of per diem court reporter fees. Establishes a nonrefundable court reporter fee of \$25 for the first hour. Establishes an additional fee of \$500 in cases designated complex. Establishes graduated filing fees from \$185 to \$3,500 for probate proceedings. Increases the fee for filing a notice of appeal or a petition for a writ in a civil case appealed to the Court of Appeal to \$655. Increases the fee to \$590 for filing a petition for a writ or a petition for a hearing in a civil case in the Supreme Court after a decision in the Court of Appeal.

**LOCAL GOVERNMENT
OMNIBUS ACT OF 2003**

**SB 66, COMMITTEE ON LOCAL
GOVERNMENT, CH. 296
VARIOUS CODES**

Clarifies that specified duties are the responsibility of the clerk of the court and other county officials and not the county clerk.

**TRIAL COURT
RESTRUCTURING CLEANUP**

**SB 79, COMMITTEE ON
JUDICIARY, CH. 149
VARIOUS CODES**

Conforms various statutory provisions to the abolition of the municipal courts and their unification within the superior courts. Among other things (1) repeals or revises trial court sessions statutes; (2) repeals statutes pertaining to the coordination of operations of the municipal and superior courts in a county; (3) lodges grand jury selection functions with the jury commissioner; (4) permits superior court judges to adopt a local rule of court governing the procedures for the preparation, adoption, and annual revision of the countywide bail schedule; and (5) makes clear that the court's authority to appoint and terminate a subordinate judicial officer includes the authority to delegate appointment or termination decisions.

**TRIAL COURTS:
BUDGET PROCESS**

**SB 129, ESCUTIA, CH. 336
GOV 77202**

Requires the Judicial Council to circulate for comment proposed changes to the trial court policies and procedures as they relate to budget monitoring and reporting. Requires that final changes be adopted at a meeting of the Judicial Council when the process requires approval. Requires the Administrative Office of the Courts to review any request to transfer funds and respond within 30 days of receipt of the request. Requires the AOC to submit the request for approval or denial to the affected court, in writing, with copies provided to the Department of Finance, the Legislative Analyst's Office, the Legislature's budget committees, and the court's affected labor organizations.

**TRIAL COURTS: ACCESS TO
INFORMATION REGARDING
ADMINISTRATIVE
DECISIONS**

**SB 144, ESCUTIA, CH. 367
GOV 68511.6**

Requires the Judicial Council to adopt rules concerning the administrative and financial functions of a trial court and requiring trial courts to give notice to the public of decisions concerning those functions.

**YOUTH AUTHORITY
BOARD**

**SB 459, BURTON, CH. 4
W&I VARIOUS SECTIONS**

Merges the Youthful Offender Parole Board into the California Youth Authority and calls the new entity the Youth Authority Board. Expands the juvenile court's role by requiring the new board to notify the court and the probation department of parole consideration dates and provide information to the court and the probation department regarding treatment plans and annual progress reports for the ward. Also prohibits a minor being held in physical confinement for a period of time in excess of the maximum term of physical confinement set by the court.

**COURT RECORDS:
CONFIDENTIALITY**

**SB 660, SPEIER, CH. 154
FAM 2024.5**

Requires parties to file a form containing their social security numbers and the social security numbers of any of their minor children when they file a petition for dissolution or a responsive pleading to a petition for dissolution. This form is to be kept in a confidential portion of the case file. Allows parties to redact social security numbers from any forms or documents filed with the court once they have submitted the confidential form. Exempts from the provisions an *Abstract of Support Judgment* or any similar form created by the Judicial Council or the Department of Child Support Services to collect child support payments.

TRIAL COURTS: INTERPRETERS
SB 818, ESCUTIA, CH. 257
GOV VARIOUS SECTIONS
Revises a number of the implementation dates set forth in the Trial Court Interpreter Employment and Labor Relations Act. Extends the ending date of the regional transition period for the program from January 1, 2005, to July 1, 2005.

COURTS: COLLECTION OF FINES AND PENALTIES
SB 940, ESCUTIA, CH. 275
GOV 68085, 77205; PEN 1463.010
Requires the Judicial Council to adopt guidelines for a comprehensive collection program, establish a collaborative court-county working group on collections, and report on the effectiveness of collection programs. Authorizes the Judicial Council to establish a program providing for the suspension and nonrenewal of business and professional licenses and an amnesty program involving the collection of outstanding fees, fines, penalties, and assessments.

CRIMINAL LAW AND PROCEDURE

ASSAULT AND BATTERY: PUNISHMENT
AB 187, RUNNER AND GARCIA, CH. 138
PEN 241.8, 243.10
Increases the misdemeanor punishment for assault against a member of the United States Armed Forces from \$1,000 to \$2,000 and from a maximum of six months in county jail to a maximum of one year in county jail. Increases the misdemeanor punishment for battery against a member of the United States Armed Forces from a maximum of six months in county jail to a maximum of one year in county jail.

CONTROLLED SUBSTANCES: MANUFACTURE OF METHAMPHETAMINE
AB 233, COGDILL, CH. 620
H&S 11379.6
Makes it an aggravating factor at the sentencing of a person convicted of manufacturing methamphetamine if a child under the age of 16 resided in the structure where the methamphetamine was manufactured.

CRIMES: PROFESSIONAL SPORTING EVENTS
AB 245, COHN, CH. 818
PEN 243.83
Makes it an infraction for individuals at professional sporting events to intentionally throw any object on or across the court or field of play with the intent to interfere with or distract a player or to enter upon the court or field of play without permission from an authorized person. Requires the owner of the facility in which a professional sporting event is to

be held to provide notice specifying the unlawful activity prohibited by this section and the punishment for engaging in that prohibited activity. Establishes a fine not exceeding \$250 for a violation and prohibits adding penalty assessments and surcharges to the fine.

COMMERCIAL AND POLITICAL CYBERFRAUD
AB 277, DUTRA, CH. 277
B&P 17526, 17528.5; ELEC 8040, 18320 ET SEQ.
Among other things, reenacts statutes that make bad-faith uses of domain names unlawful and authorizes the court to order transfer of a domain name as injunctive relief. Extends the application of those provisions to Web sites that a reasonable person would believe represents the views of a proponent or opponent of a ballot measure. Revises the declaration of candidacy form to permit inclusion of a candidate's Web site address.

SEXUAL ASSAULT VICTIMS: TOXICOLOGY TESTING
AB 506, MAZE, CH. 535
PEN 13823.11
Adds a victim's urine and blood sample to the items of evidence to be collected from victims of sexual assault who consent to collection for toxicology purposes, to determine if drugs or alcohol were used in connection with the assault.

TRESPASS
AB 924, MALDONADO, CH. 101
PEN 602.8
Increases from \$10 to \$75 the penalty for a first offense of trespass and from \$100 to \$250 the penalty for a second offense on the same land or any contiguous land of the same landowner.

THEFT: VESSELS
AB 928, PACHECO, CH. 391
PEN 499B
Makes it a misdemeanor for any person to take any motorboat or vessel, without the permission of the owner, for the purpose of temporarily using or operating it.

TRESPASS: MATERNITY WARDS
AB 936, REYES, CH. 355
PEN 602
Makes it a trespass punishable as an infraction or a misdemeanor to enter or remain in a maternity ward or birthing center under circumstances that indicate to a reasonable person that the trespasser has no lawful business in the premises. Requires as a condition of probation participation in counseling, as designated by the court, unless the court finds good cause not to impose the counseling.

IDENTITY THEFT: LIMITATIONS OF TIME
AB 1105, JACKSON, CH. 73
PEN 803
Adds the crimes of identity theft and filing false documents to the list of offenses for which the statute of limitations does not begin to run until discovery of the offense.

ELDER ABUSE
AB 1131, JACKSON, CH. 543
PEN 368
Expands the law relating to theft and embezzlement against an elder or dependent adult to include forgery, fraud, or identity theft.

TRESPASS: AIRPORTS
AB 1263, BENOIT, CH. 361
PEN 602
Makes it a trespass punishable as a misdemeanor to intentionally avoid the screening and inspection of one's person or property when entering the area of an airport to which access is controlled by screening of persons and property.

CRIMINAL PROCEDURE: CONTINUANCES
AB 1273, NAKANISHI, CH. 133
PEN 1050, 1050.5
States that provisions specifying the procedures to continue a hearing in a criminal proceeding are directory only and do not mandate dismissal of an action. Provides that a court or magistrate shall not dismiss a case if a party fails to comply with these procedures.

FIREARMS: PROHIBITIONS
AB 1290, JACKSON, CH. 495
PEN 646.91, 836, 12021; W&I 15657.03
Prohibits a person subject to a stalking emergency protective order, or an elder abuse restraining order, from owning, purchasing, possessing, or receiving a firearm while that order is in effect.

ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES: MINORS
AB 1301, SIMITIAN, CH. 625
B&P 25658.2
Makes it a misdemeanor for a parent or legal guardian to permit a person under the age of 18 to consume alcohol or a controlled substance at home if the consumption results in the underage person having a blood-alcohol level in excess of .05 percent or being under the influence of the controlled substance, the parent or guardian permits the underage person to drive a vehicle, and the underage person is found to have caused a traffic collision while driving the vehicle.

HUMAN EXPERIMENTATION
AB 1371, YEE, CH. 397
H&S 24173, 24176, 24178
Increases the standards for informed consent relating to participation in a medical experiment and increases limits on liability and penalties for violations of informed consent.

SEARCH WARRANTS: IDENTITY THEFT
AB 1773, COMMITTEE ON BANKING AND FINANCE, CH. 137
PEN 1524
Provides that when property or things to be seized pursuant to a search warrant constitute evidence that tends to show a violation of identity theft or possession of identifying information with intent to defraud, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

DEATH PENALTY: MENTAL RETARDATION
SB 3, BURTON, CH. 700
PEN 1376
Defines mental retardation and establishes court procedures for determining whether a defendant is mentally retarded in response to the U.S. Supreme Court's decision banning execution of a mentally retarded defendant (*Atkins v. Virginia*, (2002) 536 U.S. 304). Provides that the issue of mental retardation will be determined by a jury after the guilt phase unless the defendant personally waives the right to a jury on the issue. If the defendant waives the right to have a jury determine mental retardation, the court shall make the determination at a hearing prior to the adjudication of guilt.

STATUTE OF LIMITATIONS: UNLAWFUL PRACTICE OF LAW
SB 337, ROMERO, CH. 152
PEN 803
Adds violations of provisions relating to unlawful practice of law to those for which the applicable limitation of time commences only when the offense has been, or could reasonably have been, discovered.

DRUG DIVERSION: SEALED RECORDS
SB 599, PERATA, CH. 792
PEN 851.90
Provides that when a person is diverted to a drug diversion program administered by a superior court or is admitted to a deferred entry of judgment program for specified drug offenders, the person successfully completes the program, and it appears to the judge presiding at the hearing where the diverted charges are dismissed that the interests of justice would be served by sealing the records of the arresting agency and related court files and records with respect to the diverted person, the judge may order those records and files to be sealed.

IDENTIFICATION: PROCESS TO CONTEST

*SB 752, ALPERT, CH. 467
PEN 853.5, 853.6; VEH 40303, 40305, 40305.5, 40500, 40504*
Creates a procedure for a person to contest a notice to appear on the basis that he or she is not the person who was issued the notice. Under this procedure, provides that a person may submit a thumbprint to the issuing court through his or her local law enforcement agency for comparison with the one placed on the notice to appear. If the court determines that there is insufficient evidence, the court may make a finding of factual innocence. Allows the local law enforcement agency providing the thumbprint service to charge the requester a fee to cover actual costs.

PROPOSITION 36: DEFINITION

*SB 762, BRULTE AND MARGETT, CH. 155
PEN 1210*

Clarifies that in Proposition 36 cases the term "nonviolent drug possession offense" means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance.

BATTERED WOMEN'S SYNDROME: WRIT OF HABEAS CORPUS

*SB 784, KARNETTE, CH. 136
PEN 1473.5*

Extends the sunset date from January 1, 2005, to January 1, 2010, in the provision of law allowing a writ of habeas corpus to be prosecuted on grounds that evidence relating to battered women's syndrome was not introduced at the trial, thereby affecting the outcome of the trial.

DOMESTIC VIOLENCE; CHILD AND ELDER ABUSE

DOMESTIC VIOLENCE: PUNISHMENT

*AB 134, COHN, CH. 262
PEN 273.5*

Adds domestic battery to the list of offenses that upon a second or subsequent conviction within seven years subjects the defendant to increased punishment if the battery resulted in infliction of corporal injury resulting in a traumatic condition.

DOMESTIC VIOLENCE PROBATION: PAYMENT OF FEE

*AB 352, GOLDBERG, CH. 431
PEN 1203.097*

Increases until January 1, 2007, the minimum payment required as a probation condition for perpetrators of domestic violence from \$200 to \$400 and directs that two-thirds of the funds collected shall be retained by the county in its domestic violence programs special fund, with the reduced remainder transferred

to the State Controller, provided that the amount is not less than \$133. Specifies that if the court orders the defendant to pay less than \$200 based on inability to pay, the state shall receive two-thirds of the payment.

CRIMINAL PROCEDURE: APPEARANCE BY DOMESTIC VIOLENCE DEFENDANT

*AB 383, COHN, CH. 29
PEN 977*

Requires a defendant charged with a misdemeanor domestic violence offense or a violation of a domestic violence protective order to be present at any time during the proceedings when ordered by the court for the purpose of being informed of the conditions of a domestic violence protective order.

ELDER ABUSE ACTIONS: CONFIDENTIALITY

*AB 634, STEINBERG AND SIMITIAN, CH. 242
CCP 2031.1, 2031.2*

Creates a statewide policy against confidential settlement agreements in cases brought under the Elder Abuse and Dependent Adult Civil Protection Act. Provides, however, that information acquired through discovery in these cases that is protected from disclosure by a stipulated protective order shall generally remain subject to the protective order and remain confidential under that order for 30 days. After 30 days, the information becomes public information except upon petition by an affected party and a showing of good cause. Clarifies that the dollar amounts in any settlement agreement may remain confidential and that the bill's provisions do not apply to medical malpractice actions subject to the Medical Injury Compensation Reform Act.

DOMESTIC VIOLENCE PROTECTIVE ORDERS

*AB 1488, BATES, CH. 30
PEN 1270.1*

Requires any person arrested for violation of a domestic violence protective order involving threats to kill or harm to appear for a hearing in open court before being released on his or her own recognizance or reduced bail.

FIREARMS: ELDER AND DEPENDENT ADULT ABUSE RESTRAINING ORDERS

*SB 226, CEDILLO, CH. 498
CCP 527.6, 527.8, 527.9; FAM 6389; PEN 136.2, 273.6, 12021; W&I 15657.03*

Prohibits ownership or use of a firearm by a person subject to an elder or dependent adult abuse protective order unless the court grants an exemption, subject to certain criteria, based on employment and safety of the subject of the order.

CHILD CUSTODY: DOMESTIC VIOLENCE

*SB 265, KUEHL, CH. 243
FAM 3044*

Provides that, for purposes of determining the best interest of the child, the preference for frequent and continuing contact with both parents may not be used to rebut the presumption against the award of custody to a perpetrator of domestic violence. Requires the court to invoke the presumption against custody when a parent has been convicted of domestic violence or when another court has made findings that domestic violence occurred. Requires the court to inform both parents about the presumption against custody when one of them alleges that the other has committed domestic violence and provide them with a written copy of relevant statutory provisions.

EMPLOYEES

COUNTY EMPLOYEES: ADDITIONAL RETIREMENT CREDIT

*AB 55, CORREA, CH. 261
GOV 31485.7, 31485.8, 31658
URGENCY, EFFECTIVE SEPTEMBER 4, 2003*

Authorizes counties operating retirement systems under the County Employees Retirement Law of 1937 to allow active members to purchase up to five years of service credit for additional retirement credit, upon approval of the county board of supervisors. The employee must pay the full cost of the additional years of service by lump-sum payment or by installment payments. The additional years of service may not be counted to meet the minimum qualifications for service or disability retirement or for any other benefits based upon years of service.

SEXUAL HARASSMENT: EMPLOYMENT

*AB 76, CORBETT, CH. 671
GOV 12940*

Makes it an unlawful employment practice for an employer to fail to take immediate and appropriate corrective action to prevent sexual harassment of an employee by nonemployees once the employer knows or should have known of this conduct. States the Legislature's intent to clarify existing law and reject the interpretation given to existing law by the appellate court in *Salazar v. Diversified Paratransit Inc.* (2002)103 Cal.App.4th 131, a case currently being reviewed by the California Supreme Court.

EMPLOYMENT: ATTORNEY FEES

*AB 223, DIAZ, CH. 93
LAB 98.2*

Provides, for the purpose of awarding attorney fees and costs, that an employee is deemed successful in the appeal of a decision of the Labor Commissioner to the trial court so long as the employee recovers a judgment in his or her favor, thereby overturning the holding in *Smith v. Rae-Venter Law Group* (2002) 29 Cal.4th 345 and restoring the prior holdings on this issue in *Cardenas v. Mission Industries* (1991) 226 Cal.App.3d 952 and *Triad Data Services, Inc. v. Jackson* (1984) 153 Cal.App.3d Supp. 1.

WORKERS' COMPENSATION

*AB 227, VARGAS, CH. 635
VARIOUS CODES*

Authorizes the California Infrastructure and Economic Development Bank to issue up to \$1.5 billion worth of bonds at any one time in order to generate funds to be borrowed by the California Insurance Guarantee Association. Increases maximum fine for workers' compensation fraud. Provides that employer assessments shall account for the total costs for the administration of the workers' compensation program. Repeals existing provisions of law relating to vocational rehabilitation and instead provides for a supplemental job displacement benefit.

LABOR CODE VIOLATIONS: PENALTIES

*AB 276, KORETZ, CH. 329
LAB VARIOUS SECTIONS*

Increases the penalties if an employer fails to pay wages or unlawfully withholds wages to \$100 for the first violation and \$200 for subsequent or willful or intentional violations. Provides that 12.5 percent of the penalty will be placed in a fund within the Labor and Workforce Development Agency and the remainder in the state General Fund. Increases the penalties for violations by a railroad corporation. Increases the penalties for violating the laws regulating work hours of employees in underground mines, smelters, or plants for the reduction or refining of ores or metals. Increases the penalty for any person who does not hold a state contractor's license employing workers to perform services for which a license is required and for any person with a state contractor's license who knowingly enters into a contract with a person to perform services for which a contract is required and that person does not meet the status of independent contractor or does not hold a state license.

**STATE EMPLOYEES:
ADDITIONAL RETIREMENT
CREDIT**

*AB 719, NEGRETE MCLEOD,
CH. 838
GOV 20909*

Allows California Public Employees' Retirement System (CalPERS) members in state service to purchase up to five years of nonqualified service in CalPERS. The employee must pay the full cost of the additional years of service, which must be purchased in one-year increments. The additional years of service may not be counted to meet the minimum qualifications for service or disability retirement or for any other benefits based upon years of service.

**SMOKING: PUBLIC
BUILDINGS**

*AB 846, VARGAS, CH. 342
GOV VARIOUS SECTIONS*

Prohibits smoking inside a public building, as defined, and within 20 feet of a main exit, entrance, or operable window of a public building. These provisions would not preempt the authority of any county, city, city and county, California Community College campus, campus of the California State University, or campus of the University of California to adopt and enforce additional smoking and tobacco control ordinances, regulations, or policies that are more restrictive than the standards required by this bill.

**UNLAWFULLY
MANUFACTURED GOODS:
CONFISCATION**

*AB 1132, KORETZ, CH. 214
LAB 2664*

Revises enforcement and appeal procedures following the confiscation of goods unlawfully manufactured in the home by establishing a procedure whereby the destruction and disposal of such goods does not require court authorization if there is no challenge to the confiscation.

**WORKERS'
COMPENSATION**

*SB 228, ALARCON, CH. 639
VARIOUS CODES*

Repeals the treating physician's presumption of correctness for all dates of injury. Requires all employers to adopt utilization review systems. Establishes a new carve-out program that allows management and labor to collectively bargain alternatives to the current workers' compensation system. Makes changes to existing payment requirements. Establishes a Medicare-based official medical fee schedule.

**VICTIMS OF CRIME: WORK
ABSENCES FOR JUDICIAL
PROCEEDINGS**

*SB 478, DUNN, CH. 630
LAB 230.2*

Requires that an employer allow an employee who is a victim of a crime, or certain persons who are related to a crime victim, to be absent from work in order to attend judicial proceedings related to the crime. Prohibits an employer from discharging, threatening, demoting, suspending, or in any manner discriminating or retaliating against an employee who is absent from work in accordance with these provisions. Requires reinstatement of the employee and reimbursement for lost wages and benefits, where applicable, and authorizes the employee to file a complaint with the Division of Labor Standards Enforcement.

**WHISTLEBLOWER
PROTECTIONS**

*SB 777, ESCUTIA, CH. 484
LAB VARIOUS SECTIONS*

Establishes new protections for whistleblowers. Among other things, requires the Attorney General to maintain a whistleblower hotline for corporate crime and regulatory misconduct and to refer calls to the appropriate investigative or regulatory agency. Provides that an employer may not retaliate against an employee for refusing to participate in an illegal activity or activity that may result in violation of state or federal statute or regulation. Provides that for government agency employees, reporting by the employee to the employer shall be deemed reporting to a government agency (which codifies the Court of Appeal's decision in *Gardenhire v. City of Los Angeles Housing Authority* (2000) 85 Cal.App.4th 236). Provides an affirmative defense against retaliation claims, even when the employee demonstrates that a proscribed activity was a contributing factor to the adverse employment action, if the employer shows by clear and convincing evidence that the adverse action would have occurred for legitimate, independent reasons. Requires employers to post a notice regarding employee rights under the whistleblower laws, including the whistleblower hotline phone number established under this bill.

EMPLOYMENT

*SB 796, DUNN, CH. 906
LAB 2698 ET SEQ.*

Allows employees to bring actions against employers for civil penalties for employment law violations. Provides that the bill will not affect the exclusive remedy provided by workers' compensation provisions of current law.

FAMILY LAW

**DOMESTIC PARTNERS:
RIGHTS**

*AB 205, GOLDBERG ET AL.,
CH. 421
FAM VARIOUS SECTIONS,
GOV 14771*

Enacts the California Domestic Partner Rights and Responsibilities Act of 2003. Expands the rights and duties of domestic partners with respect to child custody, financial support, community property, debt assumption, and other family matters to mirror those of married spouses. Provides that the superior court shall have jurisdiction over all proceedings governing the dissolution and nullity of domestic partnerships and legal separation of domestic partners. These proceedings would follow the same procedures as the equivalent proceedings with respect to marriage.

**WRITS OF EXECUTION:
SUPPORT ORDERS**

*AB 308, MONTANEZ, CH. 17
CCP 699.510*

Requires the court clerk, when issuing writs of execution after entry of a money judgment, to give priority to the application and issuance of writs of execution for child support and spousal support orders.

**CHILD CUSTODY:
ABDUCTION**

*AB 1516, BATES, CH. 52
FAM 3048
URGENCY, EFFECTIVE
JULY 14, 2003*

Clarifies that the federal Synclair-Cannon Child Abduction Prevention Act of 2002 does not affect the applicability of the provision that immunizes persons with a right to custody under certain circumstances from the crime of taking, enticing away, keeping, withholding, or concealing a child and maliciously depriving a lawful custodian of a right to custody or a person of a right to visitation.

**CUSTODY: RESIDENCE OF
THE CHILD**

*SB 156, BURTON, CH. 674
FAM 7501*

Prevents the court from issuing an order prohibiting a parent who has custody of a child from changing the child's residence absent a finding that the relocation would be detrimental to the child. States the intent of the Legislature to affirm the decision in *In re: Marriage of Burgess* (1996) 13 Cal.4th 25 and to declare that ruling to be the public policy and law of this state.

**INTERCOUNTRY
ADOPTIONS**

*SB 169, KARNETTE, CH. 19
FAM 8920*

Authorizes a minor who was adopted as part of a foreign-born sibling group and who has been separated from his or her sibling or siblings through readoption to petition the court to enforce any agreement for

visitation to which separate adoptive families of the siblings subscribed prior to the readoption. Authorizes the court to order that the agreement be enforced or grant visitation upon a finding that visitation is in the best interest of the minor and the sibling or siblings.

**ADOPTION: PARENT AND
CHILD RELATIONSHIPS**

*SB 182, SCOTT, CH. 251
FAM VARIOUS SECTIONS;
PROB 1516.5*

Allows for the adoption of a minor who has been in the custody of a legal guardian for a period of at least two years if the court finds, after consideration of specified factors, that the minor would benefit from being adopted by his or her legal guardian; provides that the 30-day waiting period for revocation of consent to adoption continues to run upon reinstatement of the consent by the birth parent or parents, if the birth parent does not reclaim or attempt to reclaim custody during the period that consent was revoked.

**FOREIGN PROTECTION
ORDERS**

*SB 399, KUEHL, CH. 134
FAM 6401, 6402*

Requires that enforcement of out-of-state protection orders be expanded to include orders issued under antistalking laws. Allows enforcement of out-of-state protection orders issued ex parte where the restrained person had notice and had or will have an opportunity to be heard.

**INDIANS: CHILD WELFARE
SERVICES: ADOPTIONS**

*SB 947, DUCHENY, CH. 469
B&P 6086.7; FAM 7810, 7950,
8620; W&I 10553.1*

Requires the state Department of Social Services to adopt regulations to ensure that the parent of an Indian child who is being voluntarily relinquished for adoption is advised of his or her rights to withdraw consent prior to entry into a final decree. Specifies that there be a court finding that diligent efforts have been made to locate an appropriate relative before placing a child in foster care. Authorizes an Indian tribe to intervene in certain adoption proceedings and proceedings to determine the foster care placement of an Indian child on behalf of a tribal member relative, as specified. An Indian tribe that has received the required notices would be required to provide notice whether or not it intends to intervene. Imposes civil penalties for making false statements or representations or for omitting information in order to obstruct the application of unification of an Indian child with his or her tribe.

JUDICIAL OFFICERS

JUDGES' RETIREMENT AB 67, NEGRETE MCLEOD, CH. 10

GOV VARIOUS SECTIONS
URGENCY, EFFECTIVE
MAY 14, 2003

Allows members of the Judges' Retirement System (JRS) who have withdrawn accumulated contributions from this system to redeposit those contributions. Permits active and retired members of JRS I and JRS II to purchase up to four years of service credit for active military service. Allows a surviving spouse of a judge who dies in office to receive payments to which he or she may be entitled under the Extended Service Incentive Program. Provides that a judge who is retired for disability may not receive a retirement allowance while he or she engages in work involving duties substantially similar to those that the judge was unable to perform due to the disability.

JURIES

JURIES: PEACE OFFICER EXEMPTION

AB 513, MATTHEWS, CH. 353
CCP 219.5

Requires the Judicial Council, on or before January 1, 2005, to adopt a rule of court to establish procedures for jury service to give scheduling accommodations to specified peace officers.

JURY DUTY: FAILURE TO APPEAR

AB 1180, HARMAN, CH. 359
CCP 209

Allows a court to impose reasonable monetary sanctions after an order to show cause hearing in lieu of contempt procedures when an individual summoned for jury service fails to appear.

JUVENILE DELINQUENCY

FIREARMS PROHIBITIONS: JUVENILE OFFENDERS

AB 319, FROMMER AND
JEROME HORTON, CH. 490
PEN 12021

Adds the offenses of possession of a concealed or loaded firearm and permitting a loaded firearm to be brought into a vehicle to the list of convictions that prohibit a juvenile from having under his or her custody or control any firearm until the age of 30 years.

JUVENILES: ESCAPE FROM CUSTODY

AB 355, PACHECO, CH. 263
W&I 871

Makes it a misdemeanor for any person who is under the custody of a probation officer or peace

officer in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility, to escape or attempt to escape while outside or away from such an institution or facility while under the custody of a probation officer or peace officer.

JUVENILE DELINQUENCY: DETENTION OF MINORS IN ADULT FACILITIES

AB 945, NUNEZ, CH. 332
W&I 207.6

Permits a minor to be detained in a jail or other secure facility for the confinement of adults only if the court makes a finding on the record that the minor's further detention in a juvenile hall poses a danger to the staff or other minors in the juvenile facility or the minor cannot safely be managed in the juvenile facility.

JUVENILE DEPENDENCY

CHILD WELFARE SERVICES: FOSTER SIBLINGS

AB 353, MONTANEZ, CH. 28
W&I 361.5

Clarifies that a "sibling" is a person related to the child by blood, adoption, or affinity and would additionally, in cases involving severe sexual abuse or severe physical harm, include within the definition of a sibling a person whose legal, biological, or foster parent is the parent of the child.

DEPENDENT CHILDREN

AB 408, STEINBERG, CH. 813
W&I VARIOUS SECTIONS

Requires that the social studies, reports, evaluations and assessments, and case plans for permanent placement services in dependency cases include information regarding the child's relationship to individuals who are important to the child and actions necessary to maintain those relationships. Provides that every dependent child is entitled to participate in age-appropriate extracurricular activities and prohibits state or local policies that prevent or create barriers to such participation. If a court orders a hearing to terminate parental rights, the bill requires that the court make any appropriate order necessary to maintain those relationships. The bill also requires that the notice of a hearing in the juvenile court that is sent to a child who is 10 years of age or older state that the child has the right to attend the hearing. In addition, the bill requires the court to determine whether a minor who is 10 years of age or older and not present at the hearing was properly notified of his or her right to attend the hearing.

ADOPTION: LEGAL GUARDIANS

AB 416, LA SUER, CH. 81
FAM 8802

Authorizes a person who has been a legal guardian of a child for more than six months to file a petition to adopt the child if the court has found the child to have been abandoned under a specified provision.

FOSTER CARE: RIGHTS OF FOSTER CHILDREN

AB 458, CHU, CH. 331
H&S 1522.41, 1529.2, 1563;
W&I 16001.9, 16003, 16013

Adds to the rights of foster children the right to have fair and equal access to all services, placement, care, treatment, and benefits and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. Requires training for administrators, licensing personnel, licensed foster parents, and relative caretakers to include training about these rights.

EDUCATION: FOSTER YOUTH

AB 490, STEINBERG, CH. 862
ED VARIOUS SECTIONS; W&I
VARIOUS SECTIONS

Among other things, requires the court, when making a determination regarding out-of-home placement, to consider the proximity of any placement to the child's school attendance area. Requires the court to refer a child to a local educational agency for appointment of a surrogate parent under specified circumstances. Authorizes a school district to permit any social worker access to pupil records for the purpose of conducting a child dependency investigation or preparing a case plan or court report required by law. Limits the authority that foster parents have to represent a foster child in educational matters to planned permanent living situations if the court has limited the right of the parent or guardian to make educational decisions.

DEPENDENT CHILDREN

AB 524, HAYNES, CH. 306
W&I 361.1

Requires that if a child is removed from the physical custody of a parent or guardian on the ground that the child may come within the jurisdiction of the juvenile court under section 300, the child shall be returned to the physical custody of that parent or guardian immediately after a finding by the juvenile court that the child is not a person described in section 300, but, in any case, not more than two working days following the date of that finding, unless the parent or guardian and the agency with custody of the child agree to a later date for the child's release.

DEPENDENT CHILDREN: NOTICE TO SIBLINGS

AB 579, CHU, CH. 558
W&I 290.1, 290.2, 291, 292,
293, 294, 295, 366.21

Requires the probation officer, social worker, or clerk of the court to provide notice of dependency hearings to any known sibling 10 years or older of the child who is the subject of the hearing, and to the attorney and the caregiver of any known sibling, unless that sibling has a matter calendared in the same court on the same day.

FOSTER CARE

AB 1151, DYMALLY, CH. 847
GOV 911.4, 6252.6; H&S
1527.6; W&I 16000.1,
16501.15

Declares the intent of the Legislature that *County of Los Angeles v. Superior Court of Los Angeles: Real Party in Interest Terrell R.* (2002) 102 Cal.App.4th 627 does not change the standards of liability and immunity for injuries to children in foster care that existed prior to that decision. Extends the time in which a statute of limitations is tolled for a claim of injury or death to a minor in foster care and provides that after the death of a child in foster care, the name, date of birth, and date of death of the child shall be subject to disclosure under the California Public Records Act.

DEPENDENT CHILDREN: SUPPLEMENTAL REPORTS

AB 1469, NEGRETE MCLEOD,
CH. 516
W&I 364.05, 366.05

Revises provisions in Los Angeles County only requiring a social worker, in juvenile dependency hearings, to furnish a copy of supplemental reports to all parties at least 10 calendar days prior to a hearing. The bill specifies conditions under which a continuance shall be granted.

DEPENDENT CHILDREN AND ADOPTION: APPEALS

SB 59, ESCUTIA, CH. 247
W&I 366.28

Clarifies the appellate review process for cases where a placement decision is challenged after the termination of parental rights. Responds to the decision in *In re Harry N.* (2001) 93 Cal.App.4th 1378.

DEPENDENT CHILDREN: CAREGIVER INFORMATION

SB 591, SCOTT, CH. 812
W&I VARIOUS SECTIONS

Among other things, directs child protective service agencies to provide caregivers of foster children specific personal information relating to the child and the child's case. Requires the court and social worker to consider a relative's desire to provide legal permanency for a child if reunification is unsuccessful. Requires that information regarding sibling interaction, contact, or visitation authorized or ordered by the court be provided to the foster parent, relative caretaker,

or legal guardian of the child and that specified information regarding visits with the natural parents or legal guardians, with siblings, and by the social worker be included in the case plan. Requires the Judicial Council to adopt a rule of court to require an attorney for a dependent child to provide certain contact information to the child’s caregiver or, in some cases, to the child.

LEGAL PROFESSION

ATTORNEY-CLIENT CONFIDENCES

AB 1101, STEINBERG, CH. 765 B&P 6068; EVI 956.5

Provides an exception to an attorney’s duty of confidentiality by providing that an attorney may reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act likely to result in the death of, or substantial bodily harm to, an individual. States the intent of the Legislature that the President of the State Bar shall, upon consultation with the Supreme Court, appoint an advisory task force to study and make recommendations for a rule of professional conduct regarding professional responsibility issues related to the implementation of this bill. Delays the operative date of this bill until July 1, 2004.

STATE BAR: ANNUAL DUES

AB 1708, COMMITTEE ON JUDICIARY, CH. 334 B&P VARIOUS SECTIONS

Among other things, authorizes the State Bar to collect up to \$310 as total State Bar active membership dues for 2004. Revises the “scaling” criteria that allows members to reduce their bar dues by either 50 percent or 25 percent, depending on their earned income, as specified. Authorizes the State Bar to seek court judgments to collect disciplinary costs assessed upon disciplined attorneys and to recover from errant attorneys monies paid out to their wronged clients from the Client Security Fund. Requires the State Bar to report to the Judiciary Committees of the Assembly and Senate by January 1, 2005, on the status of its regulatory disciplinary efforts concerning alleged abuses of the Unfair Competition Law by private actions brought on behalf of the general public. Provides, until 2009, that applicants who fail the bar exam do not have the right to inspect their Multistate Bar Exam results if the Committee of Bar Examiners do not physically have those results.

MENTAL HEALTH

INVOLUNTARY CONFINEMENT: PSYCHOLOGISTS

AB 348, CHU, CH. 94 W&I 5152, 5154, 5257, 5259.3, 5264, 5267, 5270.35

Allows a psychologist to authorize the release of a person from an involuntary Lanterman-Petris-Short Act hold prior to the end of the holding period if the psychologist is in a collaborative treatment relationship with a psychiatrist and both the psychologist and the psychiatrist have examined the patient and consulted with one another.

PROBATE

WILLS AND TRUSTS: PROHIBITED TRANSFERS

AB 1349, CANCIAMILLA, CH. 444 PROB 21350

Expands the class of persons who may not receive a donative transfer through a will or other instrument executed by a dependent adult to include a person who is related by blood or marriage to, is a domestic partner of, is a cohabitant with, or is an employee of a care custodian of the dependent adult.

STATEWIDE REGISTRY: CONSERVATORS, GUARDIANS, AND TRUSTEES

SB 294, SOTO, CH. 629 PROB 2850 ET SEQ., 17200

Adds trustees to the classes of persons required to register in the Statewide Registry. Requires a court to remove a trustee who, being required to register, has not registered with the Statewide Registry by January 1, 2005. Exempts a trustee who administers less than six trusts at one time from the bill’s registration requirements.

TRAFFIC

PASSENGER VEHICLES: IMPOUNDMENT

AB 299, LOWENTHAL AND KORETZ, CH. 658 PUC 5386.5; VEH 21100.4

Requires a magistrate presented with the affidavit of a peace officer establishing reasonable cause to believe that a vehicle is being operated as a taxicab or other passenger vehicle for hire in violation of licensing requirements to issue a warrant or order authorizing any peace officer to seize and cause the removal of the vehicle. Authorizes a vehicle to be impounded for a period not to exceed 30 days. Prohibits a charter-party carrier of passengers from advertising its services to the public as a taxicab or taxi service.

VEHICLES: AUTOMATED ENFORCEMENT SYSTEMS

AB 1022, OROPEZA, CH. 511 VEH 21455.5, 21455.6, 21455.7

Prohibits a contract between a government agency and a manufacturer or supplier of automated enforcement equipment from including a provision for the payment or compensation to the manufacturer or supplier based on the number of citations generated, or as a percentage of the revenue generated, as a result of the use of the equipment as authorized under these provisions. Also authorizes the government agency to contract out the operation of the system under certain circumstances.

VEHICLES: TRAFFIC VIOLATOR SCHOOLS

AB 1479, CHU, CH. 518 VEH 11205, 11205.2, 11214

Requires a court to notify a traffic violator school of the court’s decision to remove the school’s name from the traffic violator school referral list published by the Department of Motor Vehicles, and the basis for that decision. Authorizes a court to use the court assistance program to assist the court in performing services relating to the processing of traffic violators. Authorizes the Department of Motor Vehicles to audit, inspect, and monitor all licensed traffic violator schools. Requires a court assistance program to follow a specific procedure if that program conducts the school monitoring services. Additionally provides that these provisions do not restrict the authority of a court to offer court-authorized or court-approved programs, including, but not limited to, home study programs, to traffic violators.

SEAT BELT VIOLATIONS: FINES

AB 1625, BENOIT, CH. 521 VEH 27315

Deletes the inclusion of penalty assessments and court costs in determining the maximum amount of the fine that may be imposed for violation of the seat belt law.

AIR POLLUTION: MOTOR VEHICLES

SB 708, FLOREZ, CH. 482 H&S 44062.1; PEN 1463.15; VEH 2814.1, 42001.2

Permits county boards of supervisors to establish, by ordinance, a combined inspection and checkpoint program to identify vehicles with unlawful motor vehicle exhaust discharges and drivers driving in violation of driving-under-the-influence statutes. In counties adopting such an ordinance, \$35 of the county treasury portion of the fine collected upon second or subsequent violations of unlawful motor vehicle exhaust discharge provisions must be deposited in a special account, to be used exclusively to cover the cost of the program. Increases the fine for a

second or subsequent violation of unlawful motor vehicle exhaust discharge to no less than \$135 and no more than \$285.

MISCELLANEOUS

PUBLIC WORKS

CONTRACTS: COMPENSATION OF CONTRACTORS

AB 453, YEE, CH. 678 PCC 5110

Provides that when a project for the construction, alteration, repair, or improvement of any structure, building, or road or other improvement of any kind is competitively bid and any intended or actual award of the contract is challenged, the contract may be entered into pending final decision on the challenge. Entitles the contractor who entered into the contract with the public entity to be paid the reasonable cost, specifically excluding profit, of the labor, equipment, materials, and services furnished by the contractor prior to the date of the determination, subject to specified conditions, if the contract is later determined to be invalid due to a defect or defects in the competitive bidding process caused solely by the public entity.

IMMIGRATION CONSULTANTS: CLIENT PROTECTION

AB 534, VARGAS, CH. 384 B&P 22442, 22442.1, 22442.2, 22443

Regulates the business practices of immigration consultants. Among other things, requires a contract between a consultant and a client to be translated into the client’s native language. Requires advance disclosure of fees and prohibits a consultant from making any promises to a client.

FINANCIAL PRIVACY

SB 1, SPEIER AND BURTON, CH. 241 FIN 4050 ET SEQ.

Enacts the California Financial Information Privacy Act, which would prohibit financial institutions from sharing or selling personally identifiable nonpublic information without obtaining a consumer’s consent. Among other things, requires that a consumer consent to an “opt in” for sharing information with an unaffiliated third party and requires that consumers be given the opportunity to “opt out” of sharing with a financial institution’s affiliates.

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